

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants:	Rommer Stefan	§	Group Art Unit:	2617
		§		
Application No	10/595,026	§	Examiner:	Chambers, Tangela T
		§		
Filed:	12/21/2005	§	Confirmation No:	1372
		§		
Attorney Docket No:	P17753-US1			
Customer No.:	27045			

For: Method and Network for WLAN Session Control

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**APPEAL BRIEF SUBMITTED UNDER 35 U.S.C. §134**

This Appeal Brief is submitted to appeal the decision of the Primary Examiner set forth in a Non-Final Official Action dated June 7, 2010, rejecting claims 1-3 and 6-8.

A prior appeal of a final rejection in this application was filed on April 16, 2010; the Examiner did not answer that appeal, but reopened prosecution on the basis of the claim rejections presented herein. Whereas fees for a Notice of Appeal and Appeal Brief were paid for the previously-filed appeal, which the Examiner did not answer, no fees are due for the present appeal. For any additional fees, due to an increase since the date of the prior appeal, the Commissioner is authorized to charge Deposit Account No. 50-1379.

**Real Party in Interest**

The real party in interest, by assignment, is: Telefonaktiebolaget LM Ericsson (publ)  
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Stockholm, Sweden

### **Related Appeals and Interferences**

A prior Appeal Brief was filed on April 16, 2010, to appeal the decision of the Examiner set forth in a Final Office Action dated November 19, 2009, finally rejecting claims 1-8, and an Advisory Action issued on January 29, 2010, maintaining the claim rejections set out in that Final Office Action. Rather than answer that appeal, the Examiner re-opened prosecution and issued new bases of claim rejections or objections in the Non-Final Office Action dated June 7, 2010; those new rejections/objections are the subject of this appeal. A copy of the prior Appeal Brief (without appendices) is submitted herewith in the Related Proceedings Appendix so that the Board can be apprised of the merits, *vel non*, of the Examiner's prior claim rejections.

### **Status of Claims**

Claims 1-8 are pending in the present application. Claims 1-3 and 6-8 stand rejected, while claims 4 and 5 stand objected to as being dependent upon a rejected base claim.

### **Status of Amendments**

The claims set out in the Claims Appendix include all entered amendments. No amendment has been filed subsequent to the final rejection.

### **Summary of Claimed Subject Matter**

<b>Claim Element</b>	<b>Specification Reference</b>
1. A network comprising at least one access point (AP) and one access controlling node, the access points making use of the Inter-Access Point Protocol (IAPP) for communication, wherein at least one mobile station may associate with the access points, wherein the identity of the mobile station can be approved by the access controlling node, wherein:	Page 6, line 27, <i>et seq.</i> Page 7, line 1, <i>et seq.</i>
the access controlling node monitors whether a given mobile station has access to any of a given subset of access points and	Page 7, line 8, <i>et seq.</i>

monitors an account relating to the given mobile station associated with a given access point of the subset of access points; and,	
if detecting that the account relating to the given mobile station has a balance of zero, the at least one access-controlling node issues at least one IAPP message causing the access point of the subset with which the mobile station is currently associated to disassociate the given mobile station, thereby terminating access for the given mobile station.	Page 7, line 14, <i>et seq.</i>

Claim Element	Specification Reference
7. An access controlling node for connecting to a group of access points, the access points making use of the Inter-Access Point Protocol (IAPP) for communication and providing access to at least one mobile station, wherein the identity of the mobile station can be approved by the access controlling node, wherein:	Page 6, line 27, <i>et seq.</i>
the access controlling node monitors whether a given mobile station has access to any of a given subset of access points and monitors an account relating to the given mobile station associated with a given access point of the subset of access points; and,	Page 7, line 8, <i>et seq.</i>
if detecting that the account relating to the given mobile station is zero, the access-controlling node issues at least one IAPP message causing the access point of the subset with which the mobile station is currently associated to disassociate the given mobile station, and thereby terminating access for the given mobile station.	Page 7, line 14, <i>et seq.</i>

Claim Element	Specification Reference
8. A method of terminating access for a Wireless Local Area Network (WLAN) mobile station, comprising the steps of:	Page 7, line 8, <i>et seq.</i>
monitoring whether a given mobile station has access to any of a given subset of access points and monitoring an account relating to the given mobile station associated with a given access point of the subset of	Page 7, line 8, <i>et seq.</i>

access points; and,	
if detecting that the account relating to the given mobile station has a balance of zero, issuing an Inter-Access Point Protocol (IAPP) message causing the access point of the subset with which the given station is associated to disassociate the given station.	Page 7, line 14, <i>et seq.</i>

The specification references listed above are provided solely to comply with the USPTO's current regulations regarding appeal briefs. The use of such references should not be interpreted to limit the scope of the claims to such references, nor to limit the scope of the claimed invention in any manner.

### **Grounds of Rejection to be Reviewed on Appeal**

- 1.) Whether claims 1-3, 7 and 8 are unpatentable over Pruss, *et al* (U.S. Patent Pub. No. 2004/0193513 A1) and Chiou, *et al*. (U.S. Patent No. 6,473,413 B1); and,
- 2.) Whether claim 6 is unpatentable over Pruss, Chiou and "Applicant Admitted Prior Art."

### **Arguments**

In response to Applicant's prior Appeal Brief (see Related Appeals Appendix), the Examiner has withdrawn the prior basis of rejection for all claims. In the present Non-Final Office Action dated June 7, 2010, the Examiner has rejected claims 1-3 and 6-8 as being unpatentable over Pruss *et al*. (U.S. Patent Publication No. 2004/0193513 A1) in view of Chiou, *et al*. (U.S. Patent No. 6,473,413 B1); and, claim 6 as being unpatentable over Pruss in view of Chiou, in further view of Applicant's Admitted Prior Art (AAPA). The Examiner has objected to claims 4 and 5 as being dependent upon a rejected base claim, but indicated those claims would be allowable if rewritten in independent form. The Applicant thanks the Examiner for the indication of allowable subject matter. For the reasons that follow, the Applicant believes claims 1-3 and 6-8 are allowable over the newly-cited prior art and, therefore, the Applicant has not elected to so amend either of claims 4 and 5; the Applicant, however, does not waive the right to do so post appeal.

1.) CLAIMS 1-3, 7 AND 8 ARE PATENTABLE OVER PRUSS AND CHIOU

The Examiner rejected claims 1-3 and 7-8 as being unpatentable over Pruss *et al.* (U.S. Patent Publication No. 2004/0193513 A1) in view of Chiou, *et al.* (U.S. Patent No. 6,473,413 B1). The Applicant traverses the rejections.

Claim 1 recites:

1. A network comprising at least one access point (AP) and one access controlling node, the access points making use of the Inter-Access Point Protocol (IAPP) for communication, wherein at least one mobile station may associate with the access points, wherein the identity of the mobile station can be approved by the access controlling node, wherein:

the access controlling node monitors whether a given mobile station has access to any of a given subset of access points and monitors an account relating to the given mobile station associated with a given access point of the subset of access points; and,

if detecting that the account relating to the given mobile station has a balance of zero,

the at least one access-controlling node issues at least one IAPP message causing the access point of the subset with which the mobile station is currently associated to disassociate the given mobile station, thereby terminating access for the given mobile station. (emphasis added)

The Applicant's invention is characterized, in part, by the use of the Inter-Access Point Protocol (IAPP) (which is conventionally used for *handover* purposes) for access control; specifically, to terminate an association of a mobile station with an access point in response to a determination that an account relating to the given mobile station has a balance of zero. The Applicants have reviewed the teachings of the cited prior art and find no such disclosure of that use of the IAPP protocol.

In the present office action, the Examiner acknowledges that Pruss does not teach the use of the IAPP protocol. (Office Action, page 4) To overcome that deficiency in Pruss, the Examiner asserts that Chiou "in an analogous art discloses the limitation." (Office Action, page 4) The Examiner states that, according to the teachings of Chiou, "[t]he communication among the Access Points (AP) in the WLANs is following the

communication mechanisms defined by the Inter Access Point Protocol (IAPP)." (Office Action, page 5) The Applicant believes the Examiner reads too much into the teachings of Chiou.

Chiou discloses a method "involve[d] in integrating the communication mechanisms of IAPP and mobile IP . . . for allowing a mobile station to roam among various APs in different IP subnets." (Abstract) In contrast to the use of IAPP for roaming purposes, the Applicant's invention is directed to extending the use of IAPP for access control. There is no teaching, motivation or suggestion in either Pruss or Chiou to modify the existing IAPP protocol to extend its use for the purpose of terminating an association of a mobile station with an access point in response to a determination that an account relating to the given mobile station has a balance of zero.

There is no basis to equate the use of IAPP messages described by Chiou to the novel use thereof for the purpose of Applicant's claimed invention. It appears that the Examiner is merely picking and choosing similar technical terms found in Applicant's claim from sundry references without any regard to the novel functionality embodied by the combination of claim elements. All inventions are, of necessity, combinations of elements known in the prior art; only God works from scratch. The Examiner, however, does not have that power and must provide a rational basis for combining the recited elements to arrive at the claimed invention. The Examiner has not met that burden. Therefore, the Examiner has not established a *prima facie* basis to reject claim 1 as obvious over Pruss in view of Chiou.

It is insufficient to establish a *prima facie* case of obviousness by pointing to the general ideas or principles of a claimed invention in one or more prior art references. To do so would allow the rejection of any new method for solving a problem by merely pointing to a reference that discloses the problem and a method for solving it, no matter how inferior the earlier method to the newly disclosed method. Rather, the proper test is whether one of ordinary skill in the art, when presented with a problem, would arrive at the claimed solution merely by reviewing the cited prior art references. In the present case, Pruss fails to teach or suggest any use of the IAPP protocol, much less an extension or adaptation of the IAPP protocol for the purpose of terminating access upon detecting that the account relating to the given mobile station has a balance of zero.

Chiou fails to cure that deficiency; in fact, the Examiner's reliance on the teachings of Chiou appears limited to the fact that Chiou also uses the IAPP protocol. The IAPP protocol is used in Chiou, however, for conventional handover purposes, not access control as utilized in the Applicant's claimed invention. Thus, the Examiner's picking and choosing from the prior art the various technical terms and general functions embodied in Applicant's claims is improper, and a *prima facie* case of obviousness has not been established.

For the foregoing reasons, claim 1 is not obvious over Pruss in view of Chiou. Whereas independent claims 7 and 8 recite limitations analogous to those of claim 1, they are also not obvious over those references. Furthermore, whereas claims 2 and 3 are dependent from claim 1, and include the limitations thereof, they are also not obvious over those references.

**2.) CLAIM 6 IS PATENTABLE OVER PRUSS, CHIOU AND "APPLICANT ADMITTED PRIOR ART"**

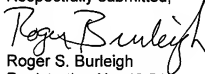
The Examiner rejected claim 6 as being unpatentable over Pruss, Chiou and "Applicant's Admitted Prior Art (AAPA)." As established *supra*, claim 1, from which claim 6 is dependent, is not obvious in view of Pruss and Chiou. The Examiner has not pointed to any teaching in "Applicant Admitted Prior Art" to overcome the deficiency in the teachings of Pruss and Chiou and, therefore, claim 6 is not obvious in view of that combination of references.

\* \* \*

### CONCLUSION

The claims currently pending in the application are patentable over the cited references and, therefore, the Applicant requests that the Examiner's claim rejections be reversed and the application be remanded for further prosecution.

Respectfully submitted,

  
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## CLAIMS APPENDIX

1. (Previously Presented) A network comprising at least one access point (AP) and one access controlling node, the access points making use of the Inter-Access Point Protocol (IAPP) for communication, wherein at least one mobile station may associate with the access points, wherein the identity of the mobile station can be approved by the access controlling node, wherein:

the access controlling node monitors whether a given mobile station has access to any of a given subset of access points and monitors an account relating to the given mobile station associated with a given access point of the subset of access points; and,

if detecting that the account relating to the given mobile station has a balance of zero,

the at least one access-controlling node issues at least one IAPP message causing the access point of the subset with which the mobile station is currently associated to disassociate the given mobile station, thereby terminating access for the given mobile station.

2. (Previously Presented) The network according to claim 1, wherein the access controlling node is an authentication server connected to the Internet.

3. (Previously Presented) The network according to claim 2, wherein a second access control node is provided, the second access control node being a gateway node.

4. (Previously Presented) The network according to claim 2, wherein the access controlling node issues an IAPP ADD-notify message.

5. (Previously Presented) The network according to claim 2, wherein the access controlling node issues an IAPP MOVE-notify message.

6. (Previously Presented) The network according to claim 3, wherein the access controlling node issues a Lock out request to the gateway node.

7. (Previously Presented) An access controlling node for connecting to a group of access points, the access points making use of the Inter-Access Point Protocol (IAPP) for communication and providing access to at least one mobile station, wherein the identity of the mobile station can be approved by the access controlling node, wherein:

the access controlling node monitors whether a given mobile station has access to any of a given subset of access points and monitors an account relating to the given mobile station associated with a given access point of the subset of access points; and,

if detecting that the account relating to the given mobile station is zero,

the access-controlling node issues at least one IAPP message causing the access point of the subset with which the mobile station is currently associated to disassociate the given mobile station, and thereby terminating access for the given mobile station.

8. (Previously Presented) A method of terminating access for a Wireless Local Area Network (WLAN) mobile station, comprising the steps of:

monitoring whether a given mobile station has access to any of a given subset of access points and monitoring an account relating to the given mobile station associated with a given access point of the subset of access points; and,

if detecting that the account relating to the given mobile station is has a balance of zero,

issuing an Inter-Access Point Protocol (IAPP) message causing the access point of the subset with which the given station is associated to disassociate the given station.

\* \* \*

**EVIDENCE APPENDIX**

None.

### RELATED PROCEEDINGS APPENDIX

This Appendix presents a copy of the prior Appeal Brief (without Appendices), submitted on February 16, 2010.